

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

DONALD K. KLEPPER, and
KAREN H. HAGGLUND,

CV 11-41-M-DWM-JCL

Plaintiffs,

vs.

FINDINGS & RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

MONTANA DEPARTMENT OF
TRANSPORTATION; and
M.A. DEATLEY CONSTRUCTION,

Defendants.

Defendants Montana Department of Transportation and M.A. DeAtley Construction, Inc. filed a Fed. R. Civ. P. 56 motion for partial summary judgment on Plaintiff Donald Klepper's claims advanced in this case. Specifically, Defendants assert that Klepper does not have any legal interest in the real property on which the alleged contamination spread and, therefore, lacks standing to pursue claims in this action.

Based on the documents Plaintiffs submitted in response to the summary judgment motion, Defendants now concede that, although those documents may be deficient for procedural and foundational reasons, the substance of those

documents raise a genuine issue of material fact with respect to the issue of whether Klepper has a legal interest in the subject real property.

In view of Plaintiffs pro se status, the Court must construe their filings and documents liberally and give them “the benefit of any doubt.” *Frost v. Symington*, 197 F.3d 348, 352 (9th Cir. 1999). *See also Erickson v. Pardus* 551 U.S. 89, 94 (2007). Therefore, based on Defendants’ concession, IT IS RECOMMENDED that their Fed. R. Civ. P. 56 motion for partial summary judgment on Plaintiff Donald Klepper’s claims be DENIED.

DATED this 5th day of December, 2011.

/s/ Jeremiah C. Lynch

Jeremiah C. Lynch

United States Magistrate Judge